

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

PAUL G. WRIGHT and THERESA WRIGHT,
and their minor children E.W., M.W., N.W., and
R.W.,

Plaintiffs,
v.

DECISION AND ORDER
11-CV-140S

HON. MARGARET O. SZCZUR, et al.,

Defendants.

I. INTRODUCTION

1. Pro se Plaintiffs Paul and Theresa Wright commenced this action on behalf of themselves and their minor children on February 15, 2011, alleging various statutory and constitutional violations against 58 defendants. In a January 30, 2012 Decision and Order, the Court, upon motions, dismissed 48 of these defendants from the action. Pending before this Court are the Motion for Judgment on the Pleadings Dismissing the Complaint of Defendant Dr. Wonhoon Park (Docket No. 132) and the Motion to Dismiss of Defendants David and Linda Beckinghausen. (Docket No. 133.) At the time of the prior order, there was no motion for dismissal on behalf of these Defendants pending.

2. For some inexplicable reason, neither Defendant Park nor the Beckinghausen Defendants reference the prior January 2011 Decision and Order in their motion papers. That Decision and Order disposes of the arguments raised in the present motions, including dismissal of Plaintiffs' claims under the Health Information Portability and Accountability Act of 1996 against all Defendants (Docket No. 125 at 8) and rejection of the argument that this Court lacks jurisdiction under the *Rooker-Feldman* doctrine. (*Id.* at 12-13.) More importantly, the Court held that the only claim on which Plaintiffs could

proceed in this action was that “against one set of Defendants: a substantive and procedural Due Process violation against the individual Erie County Defendants, alleging that they improperly procured a warrant and illegally removed [Plaintiffs’] children from their custody.” (Id. at 20.) The Defendants presently before the Court do not fall into that category.

3. Because Dr. Park and the Beckinghausens were never expressly dismissed as defendants, the Court will grant their current respective motions for the reasons stated in the January 30, 2012 Decision and Order rather than dismissing them as moot. Plaintiffs arguably concede the propriety of this determination, inasmuch as they have not opposed the motions, and the Court-ordered deadline has passed. (See Docket No. 134.)

IT HEREBY IS ORDERED that the Motion of Defendant Dr. Wonhoon Park for Judgment on the Pleadings (Docket No. 132) and the Motion to Dismiss of Defendants David and Linda Beckinghausen (Docket No. 133) are GRANTED.

SO ORDERED.

Dated: October 8, 2012
Buffalo, New York

/s/William M. Skretny
WILLIAM M. SKRETNY
Chief Judge
United States District Judge